IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4879 of 2007()

CRMP.1126/2007 of DISTRICT COURT, KASARAGOD
CRIME NO.3/05 OF CHANDERA POLICE STATION

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PETITIONER/2ND ACCUSED:

A.V. BABY, AGED 40 YEARS,
S/O. UKKRU, AYYAMKULANGARA HOUSE, EASTERN BAZAR,
VAZHINIHI, THRISSUR DISTRICT.

BY ADV. SRI.C.PRABIN BENNY

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007 ALONG WITH B.A.NO.4977/07, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. Nos. 4879 & 4977 of 2007

Dated this the 13th day of August, 2007

ORDER

Applications for regular bail. The petitioners are accused 2 and 3. Altogether, there are three accused persons. The allegations in a nutshell is that the 1st accused forged a Demand Draft showing the same as payable to the 2nd accused. The said draft was collected in the account of the 2nd accused. The draft was presented in the account of the 2nd accused by the 3rd accused. The 2nd accused by a cheque had withdrawn the amount from the account. That cheque was encashed by the 3rd accused. It is the case of the prosecution that accused 1 to 3 had acted in furtherance of their common intention. The petitioners were arrested on 2/7/07. They continue in custody from that date. They face allegations, inter alia, under Secs.468 and 471 and 498-B and C of the IPC. Investigation is in progress. The 1st accused has not been apprehended so far. The 1st accused is allegedly involved in other similar crimes.

2. The learned counsel for the petitioners submit that the petitioners are absolutely innocent. The 3rd accused is an employee of the 1st accused and the 2nd accused has been a victim of the machinations of the 1st accused. He had promised to make a financial facility available to the 2nd accused and had obtained a blank cheque from the 2nd accused. He had misutilised the said cheque. The petitioners have no responsibility whatsoever for such culpable conduct of the 1st accused. At any rate, the petitioners, who have been continuing in custody from 2/7/07, may now be enlarged on bail, it is payed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation is not complete. The principal accused has not been arrested so far. At this stage, the petitioners may not be enlarged on bail, it is prayed.

4. Having considered all the relevant inputs, I am certainly of opinion that the petitioners, who have been continuing in custody for the past about 41 days, can now be enlarged on bail subject to appropriate conditions. I am of opinion that it is not necessary to insist that the petitioners must continue in custody till the uncertain date when the 1st accused shall be apprehended by the police. Appropriate conditions can, of course, be imposed

on the petitioners in the interests of a fair, efficient and expeditious investigation.

5. **In the result:**

(a) These applications are allowed.

(b) The petitioners shall be released on bail on the following terms and conditions:

(i) The petitioners shall execute bonds for Rs.50,000/- each in each case with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer on all Mondays, Wednesdays and Fridays between 10 a.m. and 1 p.m. for a period of three months and thereafter as and when directed by the Investigating Officer in writing to do so.

(iii) The petitioners shall not leave the Sessions Division of Kasaragod until further orders and without the prior permission of the learned Magistrate for a period of three months.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge